Regulation 39-29-103

(1) **Tax levied**. In addition to all other taxes, there is levied a tax upon the severance of all metallic minerals from the earth within this state. The tax is levied against every mining operation engaged in severance of metallic minerals. The owners and/or operators of the mining operation so engaged shall be deemed liable for the maintenance of records, filing required forms and payment of the tax.

(2) **Taxation**.

- (a) For each taxable year, the tax is imposed at the rate of 2.25% of gross income. Such tax on gross income from the severance of metallic minerals is subject to an exemption of the first \$19,000,000 of gross income, which need not be prorated for a taxable period of less than twelve months. This exemption is allowed for each mining operation, which shall consist of an area of land in which the recoverable metallic mineral reserves can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of recoverable metallic mineral reserves and other resources. All lands in a mining operation shall be under the effective control of a single operator/lessee and be able to be developed and operated as a single operation. A single mining operation may include, but is not limited to, surface mining, underground and in situ mining, on-site concentrating, milling, evaporation, and other primary processing and transportation at or near the mine site.
- (b) Ores severed prior to January 1, 1978 shall not be subject to these provisions. Where ores are processed and abandoned and subsequently reclaimed by an unrelated economic interest they shall be generally considered as waste or residue.
- (c) The following case is cited to exemplify what is not considered to be waste or residue from previously processed ores:
- Taxpayer's predecessor in interest dredge mined property for gold, aggregates were picked up by dredge, washed but not treated chemically or crushed, then dumped back unchanged on same land. Gold was in free state, not actually extracted from aggregates. Aggregates were natural deposits of minerals in place not dumps or tailings. Commissioner of Internal Revenue v. Claude C. Wood Company, 321 F.2d 207, (9th Cir. 1963).
- (3) **Tax credit**. All ad valorem tax determined on the basis of gross proceeds or net proceeds under Section 39-6-106, C.R.S. 1973, is allowed as a credit against the tax imposed in subsection (1) of this section. The ad valorem tax credit allowed may not exceed fifty percent of the metallic minerals severance tax imposed. The amount of ad valorem tax used to determine the credit shall be the amount assessed in the case of an accrual basis taxpayer during the taxable year or the amount paid by a cash basis taxpayer during a taxable year. In the case of a short period return including the return for the first taxable period the credit will be limited to an amount equal to the ad valorem tax assessed to an accrual basis taxpayer or paid by a cash basis taxpayer during the short period.